

**11 VAC 5-10-10 et seq. - GUIDELINES FOR PUBLIC PARTICIPATION IN
REGULATION DEVELOPMENT AND PROMULGATION**

GUIDELINES FOR PUBLIC PARTICIPATION IN
REGULATION DEVELOPMENT AND PROMULGATION

11 VAC 5-10-10. Generally.

A. In developing any regulation, the State Lottery Board ("board") and the State Lottery Department ("department") are committed to obtaining comments from interested people.

B. Anyone who is interested in participating in the process of developing regulations should notify the department in writing. This notification should be sent to: the Director, of the State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220 ~~at the headquarters office.~~

1. The department will maintain a list of the people who notified the department in writing.

2. The department will mail to everyone on the list a copy of the Notice of Intended Regulatory Action discussed in 11 VAC 5-10-40 of these guidelines.

11 VAC 5-10-20. Identification of needed regulations.

A. Anyone may identify the need for a new regulation or for an amendment, or addition to, or a repeal of any existing regulation. The request for a new regulation or suggested change to a current regulation should be made in writing and sent to: the Director, of the State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220 ~~at the headquarters office.~~

B. The department ~~and board, at their discretion, may~~ shall consider and respond to any regulatory request or change in accordance with § 2.2-4007 A of the Code of Virginia.

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11 VAC 5-10-30. Identification of interested parties.

Before the department develops a regulation, it will identify ~~persons~~ people who would be either interested in or affected by the proposal. The methods for identifying interested parties may include, but not be limited to, the following:

1. Obtaining the statewide listing of business, professional and civic associations published by the Virginia State Chamber of Commerce. ~~This list will be used to identify groups which might be interested in the regulation. ;~~
2. Using department files to identify people who have raised questions or expressed an interest in the regulations. ;
3. Using a list, compiled by the department, of ~~persons~~ people who previously participated in public proceedings. ; and
4. Obtaining ~~annually~~ from the Secretary of the Commonwealth a list of all ~~persons~~ people, associations and others who have registered as lobbyists for the General Assembly session. ~~This list will be used to identify groups which that may be interested in the subject matter of the proposed regulation.~~

11 VAC 5-10-40. Notification of interested parties.

A. ~~Generally.~~

The department will prepare a Notice of Intended Regulatory Action ("Notice") before developing any regulation. The notice will be published in The Virginia Register of Regulations ("Virginia Register") and will identify the subject matter and purpose of the new regulation(s). The

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notice will specify a time deadline and location for interested ~~persons~~ people to submit written comments.

~~B. — Notifying those interested.~~

The methods for notifying interested ~~persons~~ people may include, but not be limited to, the following:

1. Sending ~~the a~~ notice to all persons identified as interested parties through the methods described in 11 VAC 5-10-30; and

2. Publishing ~~the a~~ notice in The Virginia Register ~~of Regulations (Virginia Register).~~

Failure of ~~these persons and organizations~~ interested parties to receive the ~~documents~~ notice for any reason shall not affect the validity of any regulation otherwise properly adopted under the Administrative Process Act (“APA”).

11 VAC 5-10-50. Public participation in regulation development.

A. ~~Initial comment. After interested parties have responded to the notice, the department will determine the level of interest.~~

~~+~~ It is the general policy of the department not to utilize standing or ad hoc advisory panels; however, if the Governor or more than 25 ~~persons~~ people express interest in the proposed regulation, the department may schedule ~~consultation in the form of~~ informal meetings before the development of the regulation, or the department may ask for additional written comments, concerns or suggestions on the development of the regulation from those who responded to the notice. ~~The meetings will determine the specific areas of interest and~~

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~~concern and will gather factual information on the subject of the regulation.~~

~~2. — Instead of informal meetings, the department may ask for additional written comments, concerns or suggestions on the development of the regulation from those who responded to the notice.~~

~~3. — The department may decide that the notice resulted in receipt of enough information so that it can develop the regulation without an informal meeting or additional written comments.~~

B. ~~Preparing a working draft.~~ After the initial public input on the intended regulatory action, the department will develop a working draft of the proposed regulation for the board to review, revise and approve, after consultation with the director.

~~C. — Within two years of the promulgation of a regulation, the department shall evaluate it for effectiveness and continued need. The department may conduct an informal proceeding which may take the form of a public hearing to receive public comment on existing regulations. Notice of such proceedings shall be transmitted to the Registrar for inclusion in The Virginia Register. Such proceedings may be held separately or in conjunction with other informational proceedings.~~

11 VAC 5-10-60. Submission of regulation under the ~~Administrative Process Act~~ APA.

~~1. — After the drafting process ends, the~~ A. The board-approved regulation will be submitted to the Registrar of Regulations ~~under pursuant to the Administrative Process Act (APA), Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 § 2.2-4006 et seq. of the Code of Virginia.~~ The board-approved regulation will be published as a proposed regulation in The Virginia Register.

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~~2~~ B. The department will furnish a copy of the regulation published in The Virginia Register to ~~persons~~ people who make such a request. A copy of the "Notice of Comment Period" form ~~may~~ will be sent with the copy of the regulation.

~~3~~ C. If the ~~department~~ board elects to hold a public hearing, the time, date, and place will be specified. In addition, the cutoff date for people to notify the department that they will participate in the public hearing will be set out. People who choose to participate in the public hearing may be asked to submit, in advance, written copies of their comments. These copies will help to ensure that comments are accurately recorded in the formal transcript of the hearing.

~~4~~ D. When the board issues an order adopting a regulation, the department may elect to send a notice to people who participated in the APA comment process. The notice will state that the regulation will be published in The Virginia Register and will specify the issue number.

~~5~~ E. If the department receives requests from at least 25 ~~persons~~ people for an opportunity to submit oral ~~and~~ or written comments, or both, on the changes to the regulation, the department shall suspend the regulatory process for 30 days to solicit additional public comment, unless the agency determines that the changes ~~made~~ proposed are minor or inconsequential in their impact. Department denial of petitions for a comment period on changes to the regulation shall be subject to judicial review.

11 VAC 5-10-70. Publication and distribution of final regulation.

~~4.~~ The board will adopt all final regulations after consultation with the director. The final regulations will be submitted for publication in The Virginia Register.

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~~2. The board will order the department to print all adopted final regulations and make appropriate distribution.~~

~~3. The distribution of any regulation will be made with a goal of increasing public knowledge of the policies of the department and compliance with the department's regulations.~~

11 VAC 5-10-80. Periodic review of regulation.

Periodically, the department shall evaluate each regulation for effectiveness and continued need. The department may conduct an informal proceeding which may take the form of a public hearing to receive public comment on existing regulations. Notice of such proceedings shall be transmitted to the Registrar for inclusion in The Virginia Register. Such proceedings may be held separately or in conjunction with other informational proceedings.